

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER L. SIMMONS,  
Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,  
Defendant.

Case No. [16-cv-04435-JCS](#)

**ORDER TO SHOW CAUSE WHY CASE  
SHOULD NOT BE DISMISSED FOR  
FAILURE TO PROSECUTE**

The Commissioner of Social Security (the “Commissioner”) was served with process on September 26, 2016 in this action for review of a denial of disability benefits. After the Commissioner failed to respond to the complaint, the Court issued an order to show cause why her default should not be entered on January 11, 2017. The Commissioner filed her answer and the administrative record that same day, resulting in a deadline of February 8, 2017 for Plaintiff Christopher Simmons to file a motion for summary judgment. *See* Civ. L.R. 16-5. On February 21, 2017, the parties filed a stipulation (dated February 9, 2017) extending the deadline for Simmons’s motion to April 10, 2017. Dkt. 15. On May 11, 2017, the parties filed a stipulation further extending the deadline for Plaintiffs’ motion to May 25, 2017. Dkt. 18.

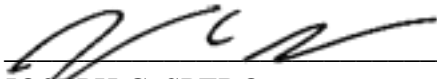
That twice-extended deadline has passed and Simmons has not filed a motion for summary judgment. The Court recognizes that Simmons’s counsel has faced exceptionally difficult personal circumstances during this time, and extends its sympathy for the death of counsel’s wife. Counsel nevertheless has a duty to represent his client in this action or to allow him to find another attorney. Plaintiff’s counsel is ORDERED to consult with his client to determine how he wishes to proceed. Thereafter, both parties are ORDERED to meet and confer regarding a schedule for the case. The parties shall file either a joint response or separate responses to this order to show

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cause no later than June 29, 2017. The Court finds the matter suitable for resolution without oral argument.

**IT IS SO ORDERED.**

Dated: June 15, 2017

  
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JOSEPH C. SPERO  
Chief Magistrate Judge